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Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

OSCAR DIAZ, an individual, JACE
O'GUINN, an individual, on behalf of
themselves and all others similarly situated,

Plaintiffs,

v.

UNITED PARCEL SERVICE, INC., an Ohio
Corporation,

Defendant.

**Case No.: 1:22-cv-00246-ADA-CBD
CLASS AND PAGA REPRESENTATIVE
ACTION**

**PLAINTIFFS' NOTICE OF UNOPPOSED
MOTION FOR AN ORDER GRANTING
PRELIMINARY APPROVAL OF CLASS AND
REPRESENTATIVE ACTION SETTLEMENT**

Date: April 10, 2023

Time: 10:30 a.m.

District Judge: Hon. Ana De Alba

Magistrate Judge: Hon. Christopher D.
Baker

Complaint Filed: February 25, 2022

Trial Date: None

**TO THE COURT, ALL PARTIES, AND THEIR RESPECTIVE COUNSEL OF
RECORD:**

PLEASE TAKE NOTICE that on April 10, 2023, at 10:30 a.m., or as soon thereafter as the matter may be heard at the United States Courthouse, located at 510 19th Street, Bakersfield, California 93301, before the Honorable Christopher D. Baker, pursuant to Fed. R. Civ. P. 23(e) and (g), Plaintiffs Oscar Diaz and Jace O’Guinn, individually and on behalf of a putative class defined as:

All current and former Part–Time Supervisors, including employees with similar job titles and/or duties, who worked for Defendant within the State of California during the Settlement Class Period, defined as from April 19, 2018 and through the date of the Preliminary Settlement Approval, and who at least once during the Settlement Class Period took paid vacation under UPS’s vacation policy, and whose average straight-time daily paid hours exceeded 5.5 hours per day for the prior Vacation Year, but whose vacation pay was limited to 5.5 hours per day, or 27.5 hours per week of vacation in the Vacation Year,

will and does hereby respectfully move this Court for entry of an Order:

1. Preliminarily approving the settlement as fair, adequate, and reasonable based upon the terms set forth in the Parties’ Joint Stipulation of Class and Representative Action Settlement and Release of Claims (“Settlement Agreement”), including payment by United Parcel Service, Inc. (“Defendant”) of the non-reversionary Gross Settlement Amount of \$1,375,000.00;

2. Conditionally certifying the proposed Class for settlement purposes, and appointing Plaintiffs’ Counsel as Class Counsel and Named Plaintiffs as Class Representatives;

3. Appointing Simpluris, Inc. as Settlement Administrator;

4. Directing that the Class be given notice of the settlement in the form of the proposed notice agreed to by the Parties, which is Exhibit A to the Settlement Agreement, and;

5. Scheduling a hearing to consider final approval of the settlement, entry of a proposed final judgment, and to consider Class Counsel’s application for an award of attorneys’ fees and reimbursement of costs and expenses, as well as Service Awards to the Class Representatives.

This motion is based upon the supporting Memorandum of Points and Authorities, the Declarations of David R. Markham, Walter L. Haines, Eric Springer of Simpluris, Inc., Plaintiffs Oscar Diaz, and Jace O’Guinn, the Settlement Agreement and proposed Class Notice, proposed order, and all other pleadings

1 and papers on file in the above-captioned action, and on such oral and documentary evidence and
2 argument as may be presented at the time of hearing.

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4 DATED: March 6, 2023

THE MARKHAM LAW FIRM

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6 By: /s/ Maggie Realin

7 David R. Markham

8 Maggie K. Realin

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